

Panaji, 26th April, 1979 (Vaisaka 6, 1901)

SERIES I No. 4

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

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Local Administration and Welfare Department

Notification

3-3-77-LAWD-MUN

Whereas the draft rules namely the Goa, Daman and Diu Municipalities (Professions, Trades, Callings and Employments) Tax Rules, 1978 were published as required by sub-section (3) of Section 306 of the Goa, Daman and Diu Municipalities Act, 1968 (Act 7 of 1969) at pages 509 to 513 of the Official Gazette Series I, No. 43, dated 27-1-1978, under Notification No. 3-3-77-LAWD-MUN, dated 20-1-1978 of the Local Administration and Welfare Department, Government of Goa, Daman and Diu, inviting objections and suggestions from all persons likely to be affected thereby till thirty days from the date of publication of the said Notification in the Official Gazette;

And whereas the said Gazette was made available to the public on 27-1-1978;

And whereas objections and suggestions received from the public on the said draft have been considered by the Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 306 read with clause (b) of sub-section 101 of the Goa, Daman and Diu Municipalities Act, 1968 (Act No. 7 of 1969) and all other powers enabling him in that behalf, the Lieutenant Governor of Goa, Daman and Diu makes the following rules, the same having been previously published as required by sub-section (3) of section 306 of the Act, namely:—

1. *Short title and commencement.*—(1) These rules may be called the Goa, Daman and Diu Municipalities (Professions, Trades, Callings and Employments) Tax Rules, 1979.

(2) They shall come into force at once.

2. *Definitions.*—In these rules, unless the context otherwise requires,

(a) "Act" means the Goa, Daman and Diu Municipalities Act, 1968 (Act No. 7 of 1969);

(b) "assessee" means a person by whom the tax is payable under the Act and these rules;

(c) "person" includes an individual, a Hindu undivided family, a company, a firm or an association of persons or a body of individuals, whether incorporated or not;

(d) "previous year" means twelve months ending on the 31st day of March immediately preceding the year in which assessment is to be made;

(e) "section" means a section of the Act;

(f) "tax" means a tax on professions, trades, callings employments imposed under section 101;

(g) "Total gross income" means the aggregate income accruing from or arising out of any profession, trade, calling or employment (or a combination of any of them) carried on or followed by any person in the municipal area;

(h) "Year" means the year commencing on the first day of April.

3. *Imposition of tax.*—(1) Subject to the provision of the Act and these rules, every Council shall impose the tax on the total gross annual income of every person carrying on or following any profession, trade, calling or employment (or a combination of any of them) in the municipal area.

(2) The amount of the tax payable by any person in any year shall be determined with reference to his total gross income during the previous year provided that the tax payable in respect of any person for any year shall not exceed one hundred and twenty rupees.

4. *Liability for the tax.*—Every person who carries on any trade, either by himself or by an agent or representative, or who follows a profession or calling, or who is an employment, either wholly or in part, within a municipal area, shall be liable to pay for each year the tax in respect of such profession, trade, calling or employment as imposed by the Council.

Explanation.—A person shall be deemed to have carried on trade or followed a profession or calling or to be in employment in the municipal area, if he has, for not less than sixty days in the year, a place of business or office or other establishment in the municipal area or the place where he is employed is situated in such area.

5. *Maximum and minimum rates of the tax.*—The maximum and minimum rates of the tax to

be imposed by any Council shall be as follows, namely:

Where the total gross annual income	Maximum rate of tax per annum	Minimum rate of tax per annum
1. Upto Rs. 3,600/-	Nil	Nil
2. Exceeds Rs. 3,600/- but does not exceed Rs. 5,000/-	18	12
3. Exceeds Rs. 5,000/- but does not exceed Rs. 7,500/-	24	18
4. Exceeds Rs. 7,500/- but does not exceed Rs. 10,000/-	36	24
5. Exceeds Rs. 10,000/- but does not exceed Rs. 12,500/-	48	36
6. Exceeds Rs. 12,500/- but does not exceed Rs. 15,000/-	60	48
7. Exceeds Rs. 15,000/- but does not exceed Rs. 17,500/-	96	84
8. Exceeds Rs. 17,500/- and above	120	108

6. *Procedure preliminary to imposing tax.* — (1) Every Council by a resolution passed at a special meeting convened within sixty days from the date of the coming into force of these rules (or such further period or periods as the Government may in any case allow), shall —

(a) subject to the maximum and minimum rates prescribed in rule 5 fix the rates at which the tax shall be levied;

(b) fix the date (which shall not be earlier than sixty days referred above) from which the tax shall be levied.

(2) Within seven days of the passing of the resolution, the Council shall publish in the Municipal area the resolution together with these rules and a notice specifying the rates at which and the date from which the tax shall be levied;

Provided that, where the date so fixed is not the first day of April, the Council shall specify in the resolution the proportionate amount of tax which shall be payable by each class of assessee in the first year.

7. *Preparation and maintenance of assessment list.* — The Chief Officer shall cause to be prepared every year and maintain an assessment list of all assessee showing: —

- (i) the name and the address of the assessee;
- (ii) the trade, profession, calling or employment carried on or followed by such assessee and the date of its commencement;
- (iii) the total gross income as assessed by the Chief Officer, on the basis of the total gross income during the previous year;
- (iv) the amount of tax assessed.

8. *Procedure for preparation of the assessment list.* — (1) For the purpose of preparation of an assessment list, the Chief Officer shall, on or before 15th April, every year, cause a notice to be served on every person who carries on or follows any profession, trade, calling or employment in the municipal area, to furnish, within thirty days of the receipt of the notice, the following particulars: —

- (i) the nature of the profession, trade, calling or employment carried on or followed by the assessee;

(ii) the total gross income during the period from 1st April to 31st March of the previous year;

(iii) the date from which the assessee started his profession, trade, calling or employment.

(2) A company, firm or other person which or who has engaged any employees shall before 30th April, of the year, furnish to the Chief Officer, information about the persons employed by it or him, who are liable to pay the tax, on the following points: —

- (i) Name of the employee,
- (ii) the designation of the post held by the employee,
- (iii) his residential address,
- (iv) the total salary and allowances drawn by him during the previous year,
- (v) his present salary and allowances,
- (vi) any other relevant information about the employee.

(3) Any company, firm or other person who or which commences a new profession, trade or calling or who obtains a new employment which makes it or him liable to pay the tax shall, within one month or so commencing the profession, trade or calling or obtaining the employment, give an intimation thereof in writing to the Chief Officer.

(4) Any person liable to pay the tax —

- (a) who changes his profession, trade, calling or employment,
- (b) who changes the place where such profession, trade, calling or employment is carried on,
- (c) who changes the name of the company or firm or association carrying on such profession, trade, calling or employment,
- (d) who ceases to carry on or follow any profession, trade, calling or employment,

shall within one month, give an intimation of such change to the Chief Officer.

9. *Scrutiny of assessment list.* — (1) The Chief Officer shall scrutinise the assessment list prepared under rule 7 and on the basis of the information furnished under rule 8, determine the amount of the tax payable by the assessee and shall cause to be made an entry thereof in the assessment list.

(2) The Chief Officer or any other Municipal Officer in the employ of the Council authorised in writing by the Chief Officer, shall have free access to any office of a company or firm or other person which or who is liable to tax or which or who employs persons liable to the tax, for the purpose of checking the correctness of any information supplied in pursuance of a notice served under rule 9.

(3) The Chief Officer or any other officer of the Council authorised by him for the purposes of sub-rule (2) may require an assessee to produce books of accounts, or orders or receipts and the assessee shall produce such books of accounts, or orders or receipts to prove his total gross income.

10. *Publication of notice of assessment list.* — (1) When the assessment list has been completed and

duly scrutinised by the Chief Officer, he shall give public notice thereof and of the place where the list or a copy thereof may be inspected. Such notice shall be given not later than the 15th June. Every company or firm or other person whose name has been included in the list or any authorised agent of such person shall be at liberty to inspect the list and make extracts therefrom, without any charge.

(2) Any person whose name is not so included in the list may be allowed to take extracts therefrom on payment of such charges as may be fixed by the Council.

11. *Objection to assessment.*—(1) The Chief Officer shall specify in the notice to be given under rule 11, a date, which shall not be less than one month after the date of publication, on or before which objections to the assessment in such list may be made.

(2) Any person whose name is included in the assessment list published under rule 11, if he considers that his name should not be included in the list or that the amount of tax assessed is not correct, he may make an application in writing to the Chief Officer stating the grounds of his objections thereto.

(3) No application under sub-rule (2) shall be admitted—

(i) unless the application has reached the Municipal Office within the period prescribed in sub-rule (1); and

(ii) unless the amount of the tax assessed has been paid.

(4) All the objections so made shall be entered in a register to be maintained for the purpose.

12. *Hearing of objections.*—(1) After the period given in the public notice referred to in rule 11 expires, the Chief Officer shall refer to the Standing Committee the assessment list along with the objections received.

(2) Within a period of six weeks from the date specified in rule 12, the Standing Committee shall investigate and decide all the objections, after allowing the objectors an opportunity of being heard in person or by an agent and cause the result thereof to be noted in the register kept under rule 12(4). The Chief Officer shall then amend the assessment list in accordance with the decisions taken by the Standing Committee.

Provided that, before any such amendment is made, the reasons therefor shall be recorded in the register aforesaid.

(3) The decision of the Standing Committee in respect of any objections shall be final.

(4) The Chief Officer or any other Officer authorised by him shall ordinarily be present at the meetings of the Standing Committee to assist it in the disposal of the applications.

(5) All statements made, or accounts or documents produced in connection with the assessment of tax by any company, firm or other person shall be treated as confidential and copies thereof shall not be granted to any person except the assessee.

13. *Authentication of assessment list.*—(1) When there are no objections or if there are any

objections and all of them have been disposed of and all amendments required by rule 13 have been made in the assessment list, the said list shall be authenticated by the signatures of the Chairman of the Standing Committee and the Chief Officer, who shall endorse a certificate thereon that the assessment list is authenticated—

(i) as no objections were made to the assessment contained in the list; or

(ii) after objections to the assessment contained in the list were considered and not found valid; or

(iii) after considering the objections and making amendments in the list in the case of such objections which were found valid as the case may be.

(2) Within one week of the authentication of the list under sub-rule (1), the applicants, if any, shall be informed in writing of the results of the objections raised by them.

(3) The assessment list authenticated under sub-rule (1) shall be deposited in the Municipal Office and shall then be open for inspection during office hours to all persons specified therein or the agents of such persons and a notice that it is so open shall forthwith be published. Such persons or agents shall also be entitled to take extracts therefrom free of charge.

(4) If in any year, an assessment list is not prepared, published and authenticated under rules 8, 11 and 14, respectively, the Standing Committee may pending the authentication of the list for the said year, adopt the list for the previous year and the tax paid by any person on the basis of such list shall be subject to adjustment after the list for the said year is authenticated.

14. *Authentic list how far conclusive.*—Subject to such alterations as may be made in the assessment list under provisions of rule 16, or on appeal or revision made under section 164 or 166, the entry in the assessment list so authenticated and deposited under the provisions of rule 14 shall be accepted as conclusive evidence for the purposes of the amount of the tax leviable on the assessee included in the said list in any year in which such list is in force.

15. *Amendment of assessment list.*—(1) If the Chief Officer has reason to believe that any entry in the assessment list is wrongly made or there is any mistake apparent from the record, the Chief Officer may, in consultation with the Standing Committee, at any time amend the assessment list by inserting, deleting or altering an entry in respect of any assessee, after giving notice to the person to whom the entry relates and calling upon him to submit before a specified date his objection, if any, to the proposed amendment.

(2) An objection made by any person interested in any such amendment, before the time fixed in such notice and in the manner provided by rules 12 and 13 shall be dealt with in all respects as if it were an application under the said rules.

(3) In respect of any such amendment, the Chief Officer shall inform the assessee of the amendment so made and also serve upon him a bill for the additional amount payable, if any.

(4) An amendment made under this rule shall have the same effect as if it had been made on the earliest day in the current year on which the circumstances justifying the amendment existed.

(5) Within one week of the receipt of the bill, the assessee shall make payment to the Council of any additional amount of tax which may accrue to him on reassessment.

16. *Presentation of the bill.* — Within one month after the authentication of the assessment list under sub-rule (1) of rule 14 or the adoption of the list under sub-rule (4) of rule 14, the Chief Officer shall serve a bill on every person assessed to tax and every assessee shall pay the amount specified in the bill within the period specified in the bill, notwithstanding the fact that he is eligible for remission, refund or exemption or adjustment under any of these rules or has any objection to the assessment.

17. *Tax may be paid in instalments.* — An assessee who is required to pay a tax of Rs. 20 or more per annum, shall be allowed to pay it in two instalments.

Provided that any person who pays the tax in instalments shall not be entitled to any discount under sub-section (3) of section 145.

18. *Exemption.* — (1) No tax shall be payable by a person whose total gross income in any year does not exceed Rs. 3,600/-.

(2) No tax shall be payable in respect of any company, corporation or undertaking owned by or managed by or on behalf of the Government.

19. *Refunds and remissions.* — (1) Where any assessee proves to the satisfaction of the Chief Officer that he did not carry on any trade or follow any profession or calling or have any employment, in the Municipal area, for a period of more than sixty days in the aggregate in any year, the Chief Officer may remit or refund the tax already recovered from such assessee.

(2) An assessee shall be entitled to the refund or remission due to the alteration or deletions made in the assessment list under rule 13 or rule 16.

(3) Refund of the tax to an assessee shall be subject to the following conditions: —

(a) if any assessee has ceased to carry on the trade or follow the profession or calling or have any employment in the Municipal area, such assessee shall have to give a notice in writing to the Chief Officer of the fact within a week after such assessee has ceased to do so;

(b) the burden of proving the fact entitling the assessee to claim refund shall be upon the assessee; and

(c) the refund is claimed within three months of the circumstances entitling the person to refund and is collected within three months of the receipt of an intimation from the Chief Officer about the refund being sanctioned.

20. *Repeal and savings.* — With effect from the commencement of levy of the tax under these rules by any Council in its municipal area, the rules by whatever name called relating to levy of such tax which may be in force in that area immediately before such commencement shall stand repealed in that area, except as respects things done or omitted to be done under these rules before their repeal.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

V. V. Mongia, Secretary (Revenue).

Panaji, 27th March, 1979.

Law Department (Legal Advice)

Notification

LD/28474/79

The following motion which was adopted by Lok Sabha on 23rd February, 1979 is hereby published for information of the public.

Any person or public body desiring to submit an opinion on the Constitution (Amendment) Bill, 1977 (Bill No. 65 of 1977) published in the Official Gazette, Series I, No. 11 dated 15-6-1978, may forward the same in triplicate to the Under Secretary to the Government of Goa, Daman and Diu, Law Department, Secretariat, Panaji on or before 15th February, 1980 for onward transmission to Lok Sabha Secretariat, New Delhi.

B. S. Subbanna, Under Secretary (Law).

Panaji, 17th April, 1979.

MOTION

"That this House do extend upto the 1st March, 1980, the time appointed for eliciting opinion on the Bill further to amend the Constitution of India."